

1 GEORGE S. CARDONA
2 Acting United States Attorney
3 CHRISTINE C. EWELL
4 Assistant United States Attorney
5 Chief, Criminal Division
6 DANIEL A. SAUNDERS (Cal. Bar #161051)
7 daniel.saunders@usdoj.gov
8 Assistant United States Attorney
9 Violent & Organized Crime Section
10 1500 United States Courthouse
11 312 North Spring Street
12 Los Angeles, California 90012
13 Telephone: (213) 894-2272
14 Facsimile: (213) 894-3713

15 Attorneys for Plaintiff
16 United States of America

17 UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA) No. CR 07-134-DDP
20)
21 Plaintiff,)
22)
23 v.) GOVERNMENT'S OPPOSITION TO EX
24) PARTE APPLICATION FOR ORDER
25) DISCLOSING IN CAMERA FILINGS
26) TO COUNSEL FOR DEFENDANT
27) SONNY VLEISIDES
28 Defendants.)

29

30 Plaintiff United States of America, by and through its
31 counsel of record, Assistant United States Attorney Daniel A.
32 Saunders, hereby opposes defendant Sonny Vleisides' ex parte
33 application for an order disclosing the government's recent in
34 camera filings in this case.

35 The government's submission of material to the district
36 court in camera for a determination of discoverability is wholly
37 proper. See Pennsylvania v. Ritchie, 480 U.S. 39, 59-60 (1985)
38 (recognizing that a court's in camera review of materials that
39 are arguably discoverable to determine whether the materials are,

1 in fact, discoverable is sufficient to protect a defendant's due
2 process rights); United States v. Crowley, 720 F.2d 1037, 1045
3 n.5 (9th Cir. 1991) (recognizing that, under such circumstances,
4 "[a]n in camera inspection is a sound approach"); United States
5 v. Jones, 612 F.2d 453, 456 (9th Cir. 1979) (prosecution asserted
6 that a document requested by the defense did not contain Brady
7 material; court followed proper procedure where it conducted an
8 in camera inspection and excised the irrelevant portions of the
9 document); see also United States v. Chavez-Vernaza, 844 F.2d
10 1368, 1375 (9th Cir. 1988) (district court did not abuse its
11 discretion by conducting in camera review of presentence report
12 to see if it contained discoverable Brady material); United
13 States v. Miller, 771 F.2d 1219, 1231 (9th Cir. 1985) (trial
14 court should conduct in camera review of potential Jencks Act
15 materials¹); United States v. Dupuy, 760 F.2d 1492, 1501-03 (9th
16 Cir. 1985) (trial court should have conducted in camera review
17 after prosecutor told the court that her notes contained Brady
18 material); cf. United States v. Skilling, 554 F.3d 529, 578 (9th
19 Cir. 2009) (district court's ruling, after in camera review, that
20 material is not discoverable is reviewed only for clear error).

21 The purpose of in camera inspection is "not to provide a
22 general discovery device for the defense," but rather "to
23 supplement the Government's assessment of materiality with the
24 impartial view provided by the trial judge." United States v.
25

26 ¹ Indeed, with respect to potential Jencks Act material,
27 in camera review is statutorily authorized as the proper
28 procedure. 18 U.S.C. § 3500(c); see United States v. Wolfson, 55
F.3d 58, 60 (5th Cir. 1995) (discussing proper procedure for in
camera review).

1 Leung, 40 F.3d 577, 583 (2d Cir. 1994). Thus, "criminal
2 defendants have no constitutional right to know the contents of
3 Government files in order to present arguments in favor of
4 disclosure." Id.; see Wolfson, 55 F.3d at 60 ("To the extent
5 that there is a question as to the relevance or materiality of a
6 given group of documents, the documents are normally submitted to
7 the court for in camera review. Such review preserves the
8 confidentiality of those documents that the court determines need
9 not be disclosed to the defendant."). The process and entire
10 purpose of in camera review would be frustrated were defendants
11 allowed to obtain materials submitted to the district court,
12 which the court has determined not to be discoverable, simply by
13 applying for disclosure of the government's in camera submission.

14 For the foregoing reasons, defendant Vleisides' ex parte
15 application for an order disclosing the government's in camera
16 filings should be denied.

17 || DATED: September 11, 2009

Respectfully submitted,

GEORGE S. CARDONA
Acting United States Attorney

CHRISTINE C. EWELL
Assistant United States Attorney
Chief, Criminal Division

/s/
DANIEL A. SAUNDERS
Assistant United States Attorney
Violent & Organized Crime Section

Attorneys for Plaintiff
UNITED STATES OF AMERICA